

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



14-1

During the oral communication section of the agenda for Tuesday, July 16, 2013, Robert Mabee read his statement into the record.

**ATTACHMENTS FILED WITH
CLERK OF THE BOARD**

**AGENDA NO.
14-1**

Benoit

1 **Bruce E. Disenhouse (SBN 078760)**
2 KINKLE, RODIGER AND SPRIGGS
3 Professional Corporation
4 3333 Fourteenth Street
5 Riverside, California 92501
6 T: (951) 683-2410
7 F: (951) 683-7759

Exempt pursuant to Government Code §6103

8 Attorneys for Defendant, COUNTY OF RIVERSIDE

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF RIVERSIDE**

11 ROBERT MABEE and MARTHA MABEE,)

CASE NO.: RIC 1214529

12 Plaintiffs,)

REPLY TO PLAINTIFFS' OPPOSITION
TO DEFENDANT'S DEMURRER TO
PLAINTIFFS' FIRST AMENDED
COMPLAINT

13 v.)

14 RIVERSIDE COUNTY GOVERNMENT)
15 ENTITY, RIVERSIDE COUNTY FLOOD)
16 CONTROL DISTRICT and DOES 1 to 25,)

17 Defendants.)

18 Defendant COUNTY OF RIVERSIDE (hereinafter referred to as "DEFENDANT") hereby
19 submits the following Reply to Plaintiffs ROBERT MABEE AND MARTHA MABEE's
20 (hereinafter jointly referred to as "PLAINTIFFS") Opposition to DEFENDANT's Demurrer to
21 PLAINTIFFS' First Amended Complaint.

22 **MEMORANDUM OF POINTS AND AUTHORITIES**

23 **I. PLAINTIFFS LACK STANDING IN THIS MATTER**

24 California Civil Code Section 1460 notes that easements run with the land, stating:

25 "Certain covenants, contained in grants of estates in real property, are
26 appurtenant to such estates, and pass with them, so as to bind the
27 assigns of the covenantor and to vest in the assigns of the
28 convenantee, in the same manner as if they had personally entered
into them. Such covenants are said to run with the land."

//

*Submitted by:
Robert Mabee - oral
7/16/13*

1 Here, the PLAINTIFFS are no longer the owners of the property, as it was foreclosed upon,
2 by their own admission, in 1998. In their Opposition, PLAINTIFFS are correct in noting that “a
3 party must be beneficially interested in the controversy...or have some special interest to be served
4 or some particular right to be preserved...” in order to have standing before the Court. Cash Call
5 Inc. v. Superior Court (2008) 159 Cal.App.4th 273, 286. However, PLAINTIFFS are unable to
6 specify any benefit, interest, or right in this matter because they no longer own the land or the
7 appurtenant easement.

8 PLAINTIFFS’ nonsensical referral to an exhibit to a previously demurred complaint is
9 woefully insufficient to constitute the pleading of any interest in this matter. Because the easement
10 in question has followed each title holder since foreclosure in 1998, PLAINTIFFS have lacked
11 standing in the matter for a substantial length of time. Therefore, this Court must sustain the
12 Demurrer in its entirety, this time without further leave to amend.

13 **II. PLAINTIFFS’ CLAIM IS BARRED BY THE STATUTE OF LIMITATIONS**

14 PLAINTIFFS have based their Opposition on the ground that California Code of Civil
15 Procedure Section 338(d) states that a cause of action accrues at the time of the discovery of a
16 mistake or fraud. PLAINTIFFS’ claim that they did not learned of the alleged fraud or mistake until
17 February 22, 2012, and therefore their claim falls within the statute of limitations. Although
18 partially correct, PLAINTIFFS failed to mention that Section 338(d) requires due diligence on a
19 plaintiff’s part.

20 The Court has previously noted that “the statute of limitations runs from the discovery of the
21 fraud or **from such time as it could have been discovered that the injured party exercised**
22 **reasonable diligence.**” Rubinstein v. Minchin (1941) Cal.App.2d 115, 119 [Emphasis Added].
23 Courts have further held that they will decline to “reward the plaintiff for his ignorance in fact if he
24 had the opportunity to obtain knowledge from sources open to his investigation, and should, by the
25 exercise of reasonable diligence, have obtained it.” Gutierrez v. Mofid (1985) 39 Cal.3d 892, 898.

26 Here, PLAINTIFFS have had the opportunity inspect the recording of the deed of easement
27 at all times since 1995. The recording of deeds is part of the public record, and was readily
28 available to PLAINTIFFS at all times. PLAINTIFFS did not perform any reasonably inspection

1 over the eighteen years since the facts supporting their alleged cause of action occurred. In light of
2 PLAINTIFFS' unreasonable lack of diligence in researching the recording of a deed in which they
3 allegedly had an interest, this Court should summarily find that the First Amended Complaint is
4 barred by the three-year statute of limitations listed in Section 338(d). To find otherwise would
5 serve to reward PLAINTIFFS for an inexplicable failure to perform an adequate investigation.

6 **III. PLAINTIFFS' TORT CLAIM WAS UNTIMELY FILED**

7 As previously noted, California Government Code Section 911.2 requires a tort claim to be
8 filed within six months of the cause of action. Here, DEFENDANT has already established that the
9 cause of action began to run at the point in which PLAINTIFFS could have reasonably discovered
10 the alleged fraud or mistake through due diligence. Because PLAINTIFFS should have investigated
11 the deed dating back to 1995, PLAINTIFFS' claim, on March 14, 2012, was both moot and
12 egregiously untimely.

13 PLAINTIFFS' Opposition makes several nonsensical references to exhibits attached to the
14 previously successfully demurred to complaint. Even if such references were acceptable, they still
15 fail to explain PLAINTIFFS' lack of due diligence in their investigation of the deed. Therefore,
16 their tort claim was fatally untimely, thereby subjecting the First Amended Complaint to the instant
17 Demurrer and dismissal.

18 **IV. THE FIRST AMENDED COMPLAINT REMAINS VAGUE AND UNINTELLIGIBLE**

19 PLAINTIFFS' Opposition to this portion of the Demurrer once again makes reference to
20 exhibits attached to the previously demurred complaint and does nothing more than restate the prior
21 defectively alleged causes of action. This mere restatement of causes of action fails to clarify the
22 grounds upon which each cause of action is made. The complaint remains riddled with conclusory
23 statements of opinion rather than facts. DEFENDANT is unable to assert any proper defense
24 against vague claims, and therefore requests that this Court sustain the Demurrer in its entirety.

25 **V. THE FIRST AMENDED COMPLAINT FAILS TO STATE ANY CAUSE OF ACTION**

26 PLAINTIFFS' Opposition is wildly vague and unintelligible. Similar to its other sections,
27 the Opposition inexplicably makes references to exhibits attached to a previously successfully
28 demurred to complaint. The Opposition then attaches a host of correspondence that are both utterly

1 inadmissible hearsay and entirely irrelevant to any of the causes of action asserted by PLAINTIFFS
2 in their First Amended Complaint. The corresponding documents all involve separate lawsuits
3 entirely. DEFENDANT is left only to wildly speculate how correspondence from a different
4 lawsuit can in any manner establish the prima facie elements of each of PLAINTIFFS' Causes of
5 Action.

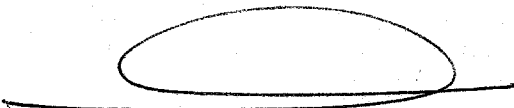
6 PLAINTIFFS claim that the interests of justice require that the litigation not be foreclosed.
7 However, amidst PLAINTIFFS' vague and unintelligible pleadings, they have failed to apprise
8 DEFENDANT of facts establishing the elements of any cause of action. Contrary to plaintiffs'
9 erroneous assertion, the interests of justice and due process dictated that this incoherent amended
10 complaint be demurred to as a result of its complete, overt and repeated failure to allege even the
11 most basic facts necessary to establish the elements for each of the eight causes of action.

12 **VI. CONCLUSION**

13 PLAINTIFFS have now had multiple opportunities to cure the defects of their pleadings.
14 However, they have repeatedly failed to allege any factual basis on which relief can be granted.
15 Given the egregiously unintelligible nature of all pleadings submitted by PLAINTIFFS, and in
16 consideration of the several bars to all Causes of Action, DEFENDANT hereby requests that the
17 Demurrer to the First Amended Complaint now be sustained without leave to amend. PLAINTIFFS
18 have proven, time and again now, that granting any further leave to amend would prove to be
19 ~~nothing more than~~ an exercise in futility, costing further taxpayer expense and wasting this Court's
20 limited judicial resources. This litigation has been ongoing at taxpayer burden for more than 25
21 years. The time has mercifully come for it to end, and this Demurrer must be sustained without
22 further leave to amend.

23
24 DATED: July 2, 2013

KINKLE, RODIGER AND SPRIGGS
Professional Corporation

25
26 

27
28
BRUCE E. DISENHOUSE

1 **PROOF OF SERVICE BY MAIL**

2 **STATE OF CALIFORNIA**)
3 **COUNTY OF RIVERSIDE**) ss.

4 I, **Aurora Medina**, state that I am employed in the aforesaid County, State of California; I
5 am over the age of eighteen years and not a party to the within action; my business address is 3333
6 Fourteenth Street, Riverside, California 92501.

7 On **July 2, 2013**, I served the foregoing **REPLY TO PLAINTIFFS' OPPOSITION TO**
8 **DEFENDANT'S DEMURRER TO PLAINTIFFS' FIRST AMENDED COMPLAINT** on the
9 interested parties by placing a true copy thereof, enclosed in a sealed envelope with postage thereon
10 fully prepaid, in the United States mail at Riverside, California, addressed as follows and/or by one
11 of the methods of service as follows:

12 **In Propria Persona**

13 Robert D. Mabee
14 Martha A. Mabee
15 3086 Miguel Street
16 Riverside, California 92506
17 T: 951-788-4858

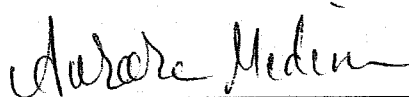
18 X **BY MAIL:** I am readily familiar with this firm's practice of collection and processing of
19 correspondence for mailing with the United States Postal Service, and that the
20 correspondence shall be deposited with the United States Postal Service the same day in the
21 ordinary course of business pursuant to C.C.P. 1013(a).

22 **BY FAX:** In addition to service by mail as set forth above, a copy of said document(s) were
23 also delivered by facsimile transmission to the addressee pursuant to C.C.P. 1013(e).

24 **BY PERSONAL SERVICE:** I caused to be hand-delivered said document(s) to the office
25 of the addressee, using an attorney service, pursuant to C.C.P. 1011.

26 **BY EXPRESS MAIL:** I caused said document(s) to be placed in an Express Mail Overnight
27 Envelope and deposited in an Express Mail DropBox to be delivered the following business
28 day pursuant to C.C.P. 1013(c).

I declare under penalty of perjury under the laws of the State of California that the foregoing
is true and correct. Executed on **July 2, 2013**, at Riverside, California.



Aurora Medina

STATEMENT READ INTO THE RECORD
CASE - RIC-1214529 - JULY 10-2013

July 10, 2013

In Bruce Disenhouse's reply dated 7/2/2013 to Plaintiffs' opposition to Defendants' demurrer to Plaintiffs' first amended complaint, page 2, line 26-27-28, Disenhouse states in his reply, "Plaintiffs have had the opportunity to inspect the recording of the deed of easement at all times since 1995. The recording of deeds is part of the public record and was readily available at all times since 1995." Bruce Disenhouse is a incompetent liar.

Plaintiffs request the Court to take Judicial Notice that Plaintiffs' complaint included exhibit 8, a letter dated March 1, 2012 from the Clerk of the Board stating that the County Recorder determined that the deeds in agenda 10.3, Oct 3, 1995 were never recorded. Plaintiffs were never informed of agenda 10.3. The agenda was discovered after the Clerk of the Board and Plaintiffs went through 24 years of records. Plaintiffs obtained a certified copy Feb 12, 2012. A review of the tape of agenda 10.3, Oct 3, 1995 shows not one word describing Plaintiff or easements. It was bundled in with other agendas.

Justification for granting of the deeds in agenda 10.3 was that the modification of the side channel conveyances have landlocked the property owners. Disenhouse's reply page 2, line 9-10 states, "the easement in question has followed each titled holder since 1988." Exhibit 9 of the complaint, the County has refused to record the deeds.

Exhibit 1 of the complaint, Supervisor Ashley, Chairman of the Board in his report of agenda 3.30, Feb 12, 2011 recommending compensation of \$242,628 stated, "in a time of rapid expansion and change throughout the County and the more than 10 year process to alleviate increasing liability for the Bautista Creek Channel events occurred that resulted in a apparent lack of justice in this case." Supervisor Ashley in exhibit 1 states that, Bruce Disenhouse's firm deceived the Courts in case 187104 and states page 2, paragraph 4, "the fact that a good faith dispute has taken 24 years does not alleviate our responsibility and obligation to provide it"

Exhibit 4 of the complaint, Assemblyman Jeffries, now Supervisor Elect wrote the Attorney General 4/22/11 asking for a investigation. The Attorney General responded stating, "it was not of statewide interest."

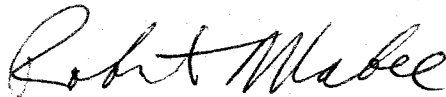
Supervisor Ashley and Tavaglione coauthored agenda 3.60, 6/11/2011 recommending arbitration. Supervisor Stone threatened the Board if the agenda passed he would go to court to stop it. Supervisor Stone has been prosecuted two times by the Attorney General and fined \$26,000. One case involving his pharmacy in which he admitted to four out of twenty counts which included fraud, corruption, mislabeled drugs, etc. Included in Plaintiffs' opposition to demurrer to first amended complaint are exhibits A, B, and C.

Exhibit A: The Court taking Judicial Notice of case 187104 must ask that as a officer of the Court why has Disenhouse not informed the Court of this settlement offer by his firm 5 years after the court found that Plaintiffs were given a new forty foot public road.

Exhibit B: A certified letter dated July 1, 1996 from the U.S. Corps of Eng. Stating, "no permits were given that authorize fill in the public road."

Exhibit C: A report from the Corps. Of Eng. Describing the unlawful acts by Riverside County that has put thousands of people at risk, including over 500 children in a school alongside the Flood control Channel. This was in violation of County, state, and Federal statues resulting in a injustice to Plaintiffs and is in the public interest that this case go forward.

Robert Mabee
Martha Mabee
3086 Miguel St.
Riverside, Ca 92506
(951) 788-4858

A handwritten signature in cursive script that reads "Robert Mabee". The signature is written in dark ink and is positioned to the right of the typed name and address.



OFFICE OF
CLERK OF THE BOARD OF SUPERVISORS
1st FLOOR, COUNTY ADMINISTRATIVE CENTER
P.O. BOX 1147, 4060 LEMON STREET
RIVERSIDE, CA 92502-1147
(951) 955-1080
FAX: (951) 955-1071

KECIA R. HARPER-IHEM
CLERK OF THE BOARD
KIMBERLY A. RECTOR
ASSISTANT CLERK OF THE BOARD

March 1, 2012

Mr. Robert Mabee
3086 Miguel Street
Riverside, CA 92506

Re: California Public Records Act Request

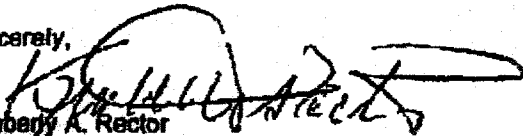
Dear Mr. Mabee:

The Clerk of the Board of Supervisors of the County of Riverside requested staff of the County Assessor-Clerk-Recorder to conduct a search to confirm whether certain easement deeds, attached to item 10.3 of October 3, 1995, of the Board of Supervisors records, were ever recorded. The recording would have been made at the request of and returned to the Riverside County Flood Control and Water Conservation District (Flood); however, Flood was unable to locate the deeds as indicated in their correspondence dated May 4, 2011.

After attempting to locate the Easement Deeds and Resolution F95-50, *Authorization to Convey Non-Exclusive Easements*, the Assessor-Clerk-Recorder was unsuccessful in finding any matches. If you would like to perform further research there is a public viewing area on the first floor of the County Administrative Center (CAC).

If you require further assistance, you may contact my office at (951) 955-1069.

Sincerely,


Kimberly A. Rector
Assistant Clerk of the Board
Clerk of the Board of Supervisors
County of Riverside

C. Assessor-Clerk-Recorder

March 12th, 2012

To Riverside County Counsel-Pamela Walls, John F. Tavaglione-Chairman of Riverside County Board of Supervisors, and Warren Williams- Riverside County Flood Control General Manger and Chief Engineer:

Attached is agenda 10.3, Oct 3, 1995. Riverside County Flood Control's General Manager and Chief Engineer Kenneth Edwards recommended motion that the board approve resolution no. F95-50, project no. 4-0-0030 to convey four non exclusive easements for ingress and egress purposes over district owned land. "Justification- page 2- modifications of several sided channel conveyances has obstructed four property owners' access to the public road. The granting of these easements will provide unobstructed access to the property owners."

A letter from the Clerk of the Board dated March 1, 2012 to Robert Mabee stating that the Clerk of the Board of Supervisors requested staff of the County Assessor Clerk Recorder to conduct a search to confirm whether certain easement deeds attached to item 10.3 of Oct 3, 1995 of the Board of Supervisors records were ever recorded. After attempting to locate the easement deeds and resolution F 95-50, authorization to convey non exclusive easements, the Assessor Clerk Recorder was unsuccessful in finding any matches. I now request that the four easement deeds be recorded and a letter of apology to the property owners for the delay.

Robert Mabee
Robert Mabee
3086 Miguel St.
Riverside, Ca 92506
(951) 788-4858

RECEIVED
CLERK / BOARD OF SUPERVISORS
2012 MAR 13 AM 9:09

BOARD OF SUPERVISORS
MAR 12 2012

Received by: *mw*

RECEIVED
MAR 13 2012

RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT

RECEIVED

MAR 12 2012

COUNTY COUNSEL

TO *REMAY*

**Riverside County Board of Supervisors
Request to Speak**

Submit request to Clerk of Board (right of podium),
Speakers are entitled to three (3) minutes, subject
to Board Rules listed on the reverse side of this form.

SPEAKER'S NAME: Robert Mabee

Address: 3086 Miguel St
(only if follow-up mail response requested)

City: Riverside **Zip:** 92506

Phone #: 788-4858

Date: 7/1/16 **Agenda #** ORAL

PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:

Support **Oppose** **Neutral**

ORAL COMMUNICATIONS

Note: If you are here for an agenda item that is filed
for "Appeal", please state separately your position on
the appeal below:

Support **Oppose** **Neutral**

I give my 3 minutes to: _____

BOARD RULES

Requests to Address Board on "Agenda" Items:

You may request to be heard on a published agenda item. Requests to be heard must be submitted to the Clerk of the Board before the scheduled meeting time.

Requests to Address Board on items that are "NOT" on the Agenda:

Notwithstanding any other provisions of these rules, member of the public shall have the right to address the Board during the mid-morning "Oral Communications" segment of the published agenda. Said purpose for address must pertain to issues which are under the direct jurisdiction of the Board of Supervisors. YOUR TIME WILL BE LIMITED TO THREE (3) MINUTES.

Power Point Presentations/Printed Material:

Speakers who intend to conduct a formalized Power Point presentation or provide printed material must notify the Clerk of the Board's Office by 12 noon on the Monday preceding the Tuesday Board meeting, insuring that the Clerk's Office has sufficient copies of all printed materials and at least one (1) copy of the Power Point CD. Copies of printed material given to the Clerk (by Monday noon deadline) will be provided to each Supervisor. If you have the need to use the overhead "Elmo" projector at the Board meeting, please insure your material is clear and with proper contrast, notifying the Clerk well ahead of the meeting, of your intent to use the Elmo.

Individual Speaker Limits:

Individual speakers are limited to a maximum of three (3) minutes. Please step up to the podium when the Chairman calls your name and begin speaking immediately. Pull the microphone to your mouth so that the Board, audience, and audio recording system hear you clearly. Once you start speaking, the "green" podium light will light. The "yellow" light will come on when you have one (1) minute remaining. When you have 30 seconds remaining, the "yellow" light will begin flash, indicating you must quickly wrap up your comments. Your time is up when the "red" light flashes. The Chairman adheres to a strict three (3) minutes per speaker. **Note: If you intend to give your time to a "Group/Organized Presentation", please state so clearly at the very bottom of the reverse side of this form.**

Group/Organized Presentations:

Group/organized presentations with more than one (1) speaker will be limited to nine (9) minutes at the Chairman's discretion. The organizer of the presentation will automatically receive the first three (3) minutes, with the remaining six (6) minutes relinquished by other speakers, as requested by them on a completed "Request to Speak" form, and clearly indicated at the front bottom of the form.

Addressing the Board & Acknowledgement by Chairman:

The Chairman will determine what order the speakers will address the Board, and will call on all speakers in pairs. The first speaker should immediately step to the podium and begin addressing the Board. The second speaker should take up a position in one of the chamber aisles in order to quickly step up to the podium after the preceding speaker. This is to afford an efficient and timely Board meeting, giving all attendees the opportunity to make their case. Speakers are prohibited from making personal attacks, and/or using coarse, crude, profane or vulgar language while speaking to the Board members, staff, the general public and/or meeting participants. Such behavior, at the discretion of the Board Chairman may result in removal from the Board Chambers by Sheriff Deputies.